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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 David Normann, an individual,)
10 Plaintiff,) No. CV-08-00803-PHX-LOA
11 vs.)
12 Rassier Properties-Mercado, LLC, a))
13 Delaware limited liability company, dba) **NOTICE OF ASSIGNMENT**
14 Mercado at Scottsdale Ranch,) **AND ORDER**
15 Defendant.)
16 _____)

17 Pursuant to Local Rule ("LRCiv") 3.8(a), Rules of Practice, effective
18 December 1, 2007, all civil cases are, and will be, randomly assigned to a U.S. district
19 judge or to a U.S. magistrate judge. This matter has been assigned to the undersigned U.S.
Magistrate Judge.

20 As a result of the aforesaid Local Rule and assignment, if all parties consent
21 in writing, the case will remain with the assigned magistrate judge pursuant to 28 U.S.C.
22 636(c)(1) for all purposes, including trial and final entry of judgment. If any party
23 chooses the district judge option, the case will be randomly reassigned to a U.S. district
24 judge. To either consent to the assigned magistrate judge or to elect to have the case
25 heard before a U.S. district judge, the appropriate section of the form, entitled Consent To
26 Exercise Of

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1 Jurisdiction By United States Magistrate Judge¹, must be completed and signed. The
2 party filing the case or removing it to this Court is responsible for serving all parties with
3 the consent forms. Each party must file a completed consent form and certificate of
4 service with the Clerk of the Court not later than 20 days after entry of appearance, and
5 must serve a copy by mail or hand delivery upon all parties of record in the case.

6 Any party is free to withhold consent to magistrate judge jurisdiction
7 without adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson*
8 *v. Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9th Cir. 2003) (pointing out that
9 consent is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636(c). "A
10 party to a federal civil case has, subject to some exceptions, a constitutional right to
11 proceed before an Article III judge." *Dixon v. Ylst*, 990 F.2d 478, 479 (9th Cir. 1993)
12 (citing *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541
13 (9th Cir. 1984) (*en banc*)).

14 A review of the Court's file indicates that the parties have filed a
15 Stipulation to Extend Time for Answering Complaint. (docket #7)

16 It is unknown if a copy of the appropriate consent form, electronically
17 transmitted to Plaintiff's counsel on April 29, 2008 by the Clerk, was served with the
18 Complaint and Summons upon Defendant per the written instructions from the Clerk.

19 **IT IS ORDERED** that Defendant Rassier Properties-Mercado, LLC shall
20 execute and file no later than **June 5, 2008** either a written consent to the exercise of
21 authority by the magistrate judge or a written election to have the case reassigned to a
22 United States district judge.

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24 _____
25 ¹The consent/election form may be obtained directly from the Clerk of the Court or
26 by accessing the District of Arizona's web site at www.azd.uscourts.gov. To find the
27 consent/election form on the District's web site, click on "Local Rules" at the top of the page,
then click on "Forms" on the left side of the page and then click on and print the appropriate
form.

1 **IT IS FURTHER ORDERED** that counsel and any party, if
2 unrepresented, shall hereinafter comply with the Rules of Practice for the United States
3 District Court for the District of Arizona, as amended on December 1, 2007. The
4 District's Rules of Practice may be found on the District Court's internet web page at
5 www.azd.uscourts.gov/. All other rules may be found as www.uscourts.gov/rules/. The
6 fact that a party is acting pro se does not discharge this party's duties to "abide by the
7 rules of the court in which he litigates." *Carter v. Commissioner of Internal Revenue*, 784
8 F.2d 1006, 1008 (9th Cir. 1986).

9 **IT IS FURTHER ORDERED** that counsel and any party, if
10 unrepresented, shall use the above caption, number and initials until further order of the
11 Court.

12 || DATED this 15th day of May, 2009.

Lawrence O. Anderson
Lawrence O. Anderson
United States Magistrate Judge